

(2) No specification amendments are required.

(3) **REMARKS**

Response to Rejection Under Sec. 102

General Response

5 The Office Action cites U.S. Pat. No. 6,343,738 (Ogilvie) as anticipating all claims for the present invention under Sec. 102(e). The Ogilvie application was filed on April 14, 2000 (Provisional priority of May 15, 1999), less than one year before the present Triola application of April 11, 2001 (Provisional priority of April 20, 2000).

10 A valid rejection on the ground of anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. Soundsciber Corp. v. U.S., 148 USPQ 298, 301 (1966); In re Donohue, 226 USPQ 619, 621 (Fed. Cir. 1985).

Ogilvie invention is for "Automatic Broker Tools and Techniques." There are more than one general reasons why Ogilvie is not anticipatory to the present invention.

15 First, Ogilvie is intentionally, expressly limited to brokering transactions for "digital goods." It is clear from a study of Ogilvie that "digital goods" must be brokered according to his methodology. As explained in depth hereinafter, realty can not be "digital goods." The amended claims herein contain the limitation to real estate escrow procedures. Thus, Ogilvie can not satisfy the requirement under the law as an appropriate Sec. 102 prior art reference.

20 Second, and also in general, note that Ogilvie is an automated broker; no deal has been struck between the parties; it is still a buy-sell *negotiation process*. Ogilvie himself states, "... a content owner may still be justifiable reluctant to make that content available for inspection by *prospective* buyers, lest the content be copied and *used without paying the owner*." Col. 2, ll. 37-40; see also col. 5, ll. 45-61. It is common knowledge that a real estate escrow is a post-

contract of sale process; that is, the deal has been negotiated already and a contract of purchase-and-sale has already been entered into by the buyer and seller, or already "brokered" as that term is used throughout Ogilvie. A real estate escrow and more specifically the Triola invention handles these post-contract details to ensure proper transfers. More detail regarding real estate escrow specifics as applied against Ogilvie follow in a paragraph-by-paragraph analysis of the Office Action.

Third, it can already be recognized that just from a cursory review of Ogilvie that non-transportable property, such as real estate, was never envisioned for the methods and apparatus of the Ogilvie technology and, as will be explained, that technology does not correlate to the required post-contractual real estate escrow detail handling. The problem Ogilvie is addressing is for "...a growing body of valuable artistic, technical, business, academic, and other *content stored in various digital formats*. Col. 1, ll. 31-33. In fact, Ogilvie admits that "...transactions with the automatic broker 504 *involve at least some digital goods* 506; non-digital goods may or may not also be involved." Real estate transactions, as a given limitation of each amended independent claim - - and thereby through incorporation to the respective dependent claims - - by applicant herein do not require nor use "digital goods." Notice Ogilvie again admits that "As used herein, "digital" includes both *content* that was originally generated in digital form and content that was converted (e.g., digitized) into a digital form from a non-digital form via scanning, conventional sampling, and/or other process." Real estate is not "content" and can not be so digitized. Note also that Ogilvie himself defines "digital goods" as "...musical works, visual works, and other artistic works *in digital form*; patent applications, engineering documents, CAD files and other technical information *in digital form*; software; mailing lists, customer databases, and other marketing information *in digital form*; intellectual property rights in patents, copyrights, trademarks, trade secrets, and/or technical or marketing know-how; and other information *in digital form* that does or may possess commercial value. Col. 6, ll. 4-12. Ogilvie does mention once that "...rights in non-digital goods may also be transferred, as *when a seller provides both* a digital technical description of some chemical composition, and physical pieces of that composition for spectrographic or other physical inspection." Col. 11, ll. 16-20. However, such "goods" can not be non-transportable goods like real estate as will be explained in more depth hereinafter.

Fourth, the evidence from Ogilvie's own words is that he did not intend for his method or apparatus to apply to real estate transactions but only to the

"...tools and techniques for obtaining and/or using samples of digital content." Col. 16, ll. 66-67.

5 Even more telling is his admission that,

"Securities, stocks, bond, futures, notes, *mortgages, and such financial instruments* are **not** "digital goods." Col. 17, ll 62-63.

10 Fifth, the specific elements of independent claims herein are listed in various paragraphs of the Action with general citations to columns and lines of Ogilvie without correlation between each element and specific language of Ogilvie. However, as described in specific herein below, analysis by applicant herein shows clearly that the alleged application of digital goods bargaining transactions to real estate escrow transactions is neither appropriate nor analogous art. Therefore, all those rejections are respectfully opposed by the applicant.

15 On-line services and methods of doing business are an infant technology. The fact that Ogilvie is a contemporaneous filing with the present application is in fact evidence of the novelty Mr. Triola's present invention for computerization of real estate escrow transactions which specifically are and involve "mortgages, and such financial instruments."

20 The claims herein as amended are limited to real estate escrow transactions. That limitation, being absent from Ogilvie, the rejections must be withdrawn and accordingly so, applicant requests such withdrawal and reconsideration. Applicant reserves the right without prejudice to raise other arguments with respect to the Ogilvie reference should the rejection not be withdrawn.

#### Specific Action Remarks

25 Action para. 2 and 3 against independent claims 1, 11 and 17. There is nothing described in Ogilvie that suggests that a real estate transaction was considered; in fact Ogilvie expressly excludes such dealings. Real estate transactions are unique in at least one aspect, the

property site transferred is and always will be fixed in location in the normal course of events. In a real estate escrow transaction there are certain processes and procedures in place, necessary to close a real estate escrow an already established contractual obligation including, and not limited to, at least the following critical facts never contemplated by Ogilvie:

- A written, signed agreement between buyer and seller is the 'trigger' that is submitted *prior to* the opening of a real estate escrow.
- There is absolute proof of Seller's rightful ownership, secured and required prior to the transfer of property at close of a real estate escrow.
- Seller must deliver free and clear property free of all liens and encumbrances.
- Title insurance must be secured prior to close of a real estate escrow.
- There are *many vendors* and respective reports that are part and parcel to real estate transactions, e.g., title companies, lenders, termite inspectors, appraisers, real estate agents, home inspection warranties, City reports, County recorders/registrars, IRS and the like.
- A method and process is required for allowing the Seller to deliver a Grant deed to Buyer and to be recorded by a County government office.

Action para. 4 and dependent claims 2 and 12.; re Ogilvie Column 12 lines 37-46

All real estate escrow officers are neutral third parties to the transaction and carry out the instructions and agreement offered by the Buyer and Seller. There are no decisions impartial to either the Buyer or Seller. The Escrow Officer takes no action unless instructed by parties to the transaction. From a reading of the cited part of the reference, Ogilvie could not have considered a real estate escrow transaction since both the parties and the automated broker appear to be able to make critical decisions.

Note in general regarding the rejections of dependent claims in para.4-5, 7-9 and 13-15, that the amendments to the claims from which these claims respectively depend makes them allowable. A dependent claim includes all the limitations of the claim from which it depends and, as such, makes specific that which was general. 35 USC 112; 37 C.F.R. Sec. 1.75(c);

Allen Group, Inc. V. Nu-Star, Inc., 197 USPQ 849 (7th Cir. 1978); Ex parte Hansen, 99 USPQ 319 (Pat. Off. Bd. App. 1953). Dependent claims are non-obvious if the independent claims from which they depend are non-obvious. In re Fine, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988); see *a/so* Hartness International, Inc. V. Simplimatic Engineering Co., 2 USPQ2d 1826, 1831 (Fed. Cir. (1987) to the same effect re novelty). Thus, allowance of a base claim as patentable normally results in allowance of a claim dependent upon that claim.

Action para. 6, Column 12 line 65

Ogilvie states "In short, the invention reduces or eliminates questions of trust which inhibit transactions in digital content". In a real estate transaction, the proof of ownership is essential. Title insurance that property is free and clear of all liens and encumbrances is paramount to a real estate escrow closing. Ogilvie could not have considered a real estate escrow transaction because there would be no trust with an "automatic broker" as the Ogilvie broker does not offer a method to facilitate the above requirements necessary to close a real estate transaction. Under Ogilvie, the "automatic broker" is not able to nor does it require absolute proof that Seller is legal owner and that property is not pledged or collectivized against other interests. There is no method provided by Ogilvie that proof of ownership is an absolute requirement prior to the closing of escrow. Again, the escrowing of real estate could not have been anticipated.

Column 12 line 62

Ogilvie states "This encourages buyers to rely on the samples as accurate guides to the content of digital goods, which also facilitates transactions". There are no 'samples' offered, created or delivered in a real estate escrow transaction which would in anyway facilitate a successful transaction. Again, real estate escrow could not have been anticipated by Olgivie.

Column 10 lines 49-61

Ogilvie speaks to the sale of digital content and "Untrustworthy parties are those who would unfairly take advantage of others' trust. . . ." Ogilvie only refers to digital content like sales of software, which is not applicable to the real estate escrow transaction as in a digital content sale no absolute proof of ownership is required. Digital notarization is also required on signed

documents in the real estate escrow transaction; no method is provided by Oglivie. Once more, a real estate escrow transaction was not a concern of Oglivie.

Column 10 lines 43-44

Oglivie says "The broker is used by Agent A or another transaction party to generate samples."

5 There are no samples offered during the real estate escrow transaction. Again, Oglivie could not have anticipated a real estate escrow transaction.

Action para. 6. and the Abstract

Oglivie says "The invention provides sampling, escrowing and other tools and techniques for facilitating transactions that involve digital goods...." In a real estate escrow transaction there is  
10 no sampling of digital goods involved nor could the escrow officer create and distribute samples of the goods. No real estate escrow transaction was anticipated by Oglivie.

Action para. 6 and the BRIEF SUMMARY OF INVENTION

Column 6 lines 2-16

As also recited hereinabove, Oglivie admits, "The present invention relates to methods,  
15 articles, signals and systems for facilitating electronic commerce in digital goods. Examples of digital goods include musical works, visual works, and other artistic works in digital form . . . ."  
Oglivie does not mention nor anticipates that his invention includes the escrow for a consummated real estate contract.

Column 6 lines 26-29

20 Oglivie says "Otherwise, the broker returns the digital items of value, releases its hold on them, and/or deletes them, . . . ." In a real estate escrow transaction the escrow officer does not take possession of the real estate and, as such cannot return or release real estate upon

cancellation. Real estate cannot be considered as a digital item nor could it be 'deleted' during a real estate escrow transaction.

Column 6 lines 31-34

Oglivie states " .... and reduces the opportunity for transactions to fail due to mistakes or bad acts by a broker." In a real estate escrow transaction there isn't the possibility that a transaction could fail due to actions or inactions by an escrow officer because the officer only carries out the conditions set forth in the signed contract/agreement between the parties to the transaction. The transaction could fail at the sole direction and instruction offered by the parties to the transaction.

Column 6 lines 35-50

Oglivie says "In particular, digital goods can be escrowed. . . ." Real estate is not a digital good and there isn't the possibility that the seller could prevent the buyer from receiving /owning the real estate after the buyer has paid and the escrow has closed. As a condition of a real estate escrow transaction the seller signs a grant deed, granting ownership to the buyer prior to escrow closing and before any funds are released to seller. Grant deed documents are also recorded with the local County recorder/registrar for public notice and record.

Column 6 lines 61-77, column 7 lines 1-9

Oglivie says "The automatic broker can generate samples. . . ." Real estate escrow transactions could not have been anticipated by Oglivie as there are no 'samples' offered in a real estate transaction. There is no opportunity for " . . .the sampling techniques preferably permit the buyer to inspect the goods without thereby making the goods available for use by the buyer without a purchase."

Column 7 lines 2-12

Oglivie says that ".....goods are shipped directly from seller to buyer. This may be done in transactions in the present invention." No anticipation of a real estate escrow transaction is even possible as real property, being affixed to the ground, can not be shipped directly from

seller to buyer. The officer only delivers title to buyer once all terms and conditions of the real estate escrow have been satisfied and completed.

Column 12 lines 17-21

Ogilvie says "Only after it receives both the goods and the payment does the broker release then to the other party." A real estate escrow transaction could not have been anticipated as the escrow officer in a real estate escrow transaction never receives and/or takes possession of the goods (real estate) and only carries out the instructions between the parties to the transaction. In other words, the escrow officer is not "brokering" a deal as is Ogilvie's automated broker. The officer must deliver proof of ownership that the property being transferred to buyer is free and clear title of all liens and encumbrances. This is not a method described, suggested, nor motivated in Ogilvie.

Column 12 lines 24-28

Ogilvie says "...The seller need not worry that the buyer will receive a useable copy of the goods . . . ." Ogilvie again specifies 'useable copies of goods' which is not possible in a real estate escrow transaction. A real estate escrow transaction is not anticipated.

Action para. 6-15 and Column 12, lines 2-29, and Column 14, lines 36-65

Ogilvie does not offer a method for the absolute requirement that in a real estate escrow transaction an escrow can not be opened/entered until an agreement/contract between the buyer and seller is signed and submitted with a monetary deposit to be placed and held in escrow. Signatures are verified through a certificate authority and a third party digital notary. As to escrow status, Ogilvie does not offer a method to grant individual private passwords that permit any/all parties to the real estate transaction to view sign and print all documents that are applicable and available to each separate party.

Note specifically with respect to Ogilvie FIGURE 5, Ogilvie does not provide a method for the acceptance of a binding contract and a good faith monetary deposit/binder that is an absolute requirement prior to the opening of a real estate escrow transaction. Also, Ogilvie does not provide a method to establish absolute proof of right of ownership, delivery of free and clear



title, title insurance, home inspections and warranties, to accept grant deed allowing for property to legally transfer from seller to buyer, nor anticipation of the HUD1 report of estimated closing costs required prior to a real estate escrow transaction. There is no method allowing for the many vendors, part and parcel to a real estate escrow transaction, to submit their findings/reports to the officer for inspection by the sellers and buyers. Ogilvie speaks to digital goods and sampling, neither of which is applicable to a real estate escrow transaction, therefore, no real estate escrow transactions were anticipated by Ogilvie.

Action para. 9.

Ogilvie does not provide a method for digital notarization or a method that permits all parties to the transaction secured access to the status of the transaction nor any method to permit each party to view segregated information/documents pertaining to that particular party. There is no method offered by Ogilvie that allows each party to the transaction to view, sign and print certain information/documents unique to each party to the transaction. Ogilvie did not anticipate the escrow of a real estate.

There are many other parts of Ogilvie which show that his disclosure does not apply to real estate transactions:

In re the FIELD OF INVENTION

Column 1 lines 10-15

Ogilvie states " ..... to the technical goal of providing prospective buyers and sellers digital content.....to facilitate a market in digital content. Ogilvie did not anticipate the method to facilitate a real estate escrow transaction as there is no digital content and/or digital market.

Column 1 lines 19-32

Ogilvie talks of digital content as databases and software; some digital content exists primarily to entertain, others reflect research, development or marketing efforts.

In a real estate escrow transaction neither the officer nor parties to the transaction perform any of the above functions in digital content. This was not anticipated by Ogilvie.

Column 2 lines 28-36

5 Ogilvie says "One factor that makes the market in digital content risky is the ease with which most digital content can be copied. . . ." Real estate cannot be copied and offered for sale. Thus, this was not anticipated by Ogilvie.

Column 3 lines 1-42

10 Ogilvie maps out an order of events in transactions but does not offer a method to accept a signed agreement/contract from the buyers and sellers, along with a method to accept and collect the initial monetary deposit/binder to open a real estate escrow transaction. There is also no method providing for the seller to provide absolute proof of rightful ownership and further proof and insurance that the property being offered for sale to buyer is free and clear of any and all liens and encumbrances. Ogilvie also speaks to sellers(S). buyers (B), Goods (G), Description (D) and Samples(S) and does not anticipate that in a real estate transaction there  
15 are many outside vendors/services that are part and parcel to the transaction, including but not limited to: title companies, insurance, home warranty, inspections, termite findings, IRS, City reports, County recorders/registrars, real estate agents and commission agreements and payment, and the like.

Column 3 lines 43-48

20 Again, Ogilvie provides for samples and this is not applicable in a real estate escrow transaction.

Column 4 lines 1-65

Ogilvie does not provide a method to insure that the Seller is the rightful owner and the property being sold is free and clear of all liens. In addition, there is no method in which the officer provides insurance to the buyer that the property being offered is free of all  
5 encumbrances and actual closing does not take place until Buyer has deposited/placed in escrow good funds and seller grants property ownership/rights to buyer with a legally recorded public document filed with the County recorder/registrar.

Column 5 lines 45-67

Ogilvie suggests that it would be easier for buyers to inspect digital goods separated by  
10 long geographical distances, by different national laws, and there could be a risk that those goods will be copied, and hence stole, by someone who is merely posing as a buyer. Ogilvie did not anticipate a real estate escrow transaction as there is no possibility that this problem exists in that there are no digital goods being offered in a real estate escrow transaction and real estate is inspected and approved for purchase by the Buyer generally  
15 before entering a contract of sale and always prior to the close of escrow. The real estate escrow transaction must comply with all local, state and national real estate laws, based on where the property is located, and could not be copied or stolen prior to a successful real estate closing.

In re the BRIEF SUMMARY OF INVENTION

20 Column 6 lines 61-76 and Column 7 lines 1-9

Ogilvie suggests that samples of digital goods will be provided by broker. Real estate cannot be sampled nor provided in a real estate escrow transaction. Ogilvie did not anticipate the escrowing of real estate.

Column 7 lines 36-66

There are no assumptions, provisions or method in Ogilvie that allows for the required signed contract/agreement between buyer and seller to be submitted prior to the opening of a real estate escrow transaction. There is no anticipation that, prior to the opening of a real estate escrow transaction, it is required that a good faith deposit/binder be placed into escrow and there is no anticipation by Ogilvie that proof of legal and rightful ownership must be secured and insured and that officer can only deliver property to buyer from seller that is free and clear of any and all liens and encumbrances. There is no method or anticipation by Ogilvie that there are many other vendors/reports that are part and parcel to the real estate escrow transaction such as, title companies, attorneys, lenders, loan documents, home inspections, satisfaction of judgments, seismic reports, commission agreements, homeowners associations, city licenses and clearances, real estate taxes paid, and the like all completed and approved by parties to real estate escrow transaction prior to the closing of escrow.

In re Ogilvie Figures 5-9

In all diagrams Ogilvie provides for the escrow of digital goods, not real estate. There is no sampling offered, created or delivered in a real estate escrow transaction.

In re the DETAILED DESCRIPTION

Column 8 lines 1-4 and FIGURE 10

Ogilvie provides method to create partial, distrusted, and burdened copy of digital goods. None are applicable to the method of escrowing a real estate purchase-and-sale transaction.

Column 8 lines 8-9 and FIGURE 12

Ogilvie provides method for 'goods server' and 'sample server'. Neither of these is applicable to the escrowing of a real estate transaction and not anticipated by Ogilvie.

Column 11 lines 3-23

Ogilvie suggests that each transaction involves some digital goods. Again, this is not so in a real estate escrow transaction.

Column 11 lines 36-67

5 Ogilvie clearly does not include real estate in discussing samples.

Column 12 lines 5-7

Ogilvie states "... that digital goods can also be released automatically to the buyer after payment is made." This is not possible in a real estate escrow transaction. Besides, again there are no digital goods offered in a real estate transaction. Proof of rightful ownership, free  
10 and clear title must be proven, title insurance must be in place, HUD 1 statement issued and approved, and the like, must be completed and approved before property is granted from Seller to Buyer, again noting carefully that it is from the seller not an automatic broker.

Column 13 lines 14-18

Ogilvie states "... that Seller receives a copy of the samples created by the broker and then  
15 provided by the broker to the buyer for inspection." In a real estate escrow transaction the escrow officer does not create samples or provide samples of real estate. Buyer/agent completes physical inspection of real estate and is responsible for inspection of property.

Column 13 lines 38-55

Ogilvie talks about algorithms used to create samples wherein sampling should allow  
20 inspection without permitting full use of goods. In a real estate escrow transaction there is no permitted sampling of real estate and no permission granted for 'full use of goods.'

Column 13 lines 65-68, Column 14 lines 1-3

Ogilvie speaks of releasing of payments at different times to take advantage of network bandwidth (goods will be larger than payments, in terms of bandwidth required for transmission). This is not applicable in a real estate escrow transaction.

5 Column 14 lines 28-56

Ogilvie discusses canceling of escrow transaction by overriding the parties' digital content using an electronic 'shredding' algorithm and also barter transactions involving digital content, none of which is applicable in a real estate escrow transaction.

Column 15 lines 17-47

10 Ogilvie states that seller does not know buyer and that buyer can create samples. Clearly, real estate was not anticipated in that seller not only knows buyer but buyer must also prove qualifications to buy property. Again, the real estate escrow officer cannot create samples in a real estate transaction.

Column 17 lines 20-29

15 Ogilvie states ". . .that parties may remain anonymous with anonymous log-ins and or email aliases could be used." In a real estate escrow transaction both parties are known to each other, property has a legal description and only authorized parties to the transaction will be able to send or receive correspondence/documents.

Column 17 lines 39-56

20 Ogilvie describes suitable digital content and/or digital goods. Again this is all exclusive of a real estate escrow situation.

Column 18 lines 4-52

Ogilvie provides a method to escrow or transact digital content and goods. Ogilvie does not provide or anticipates a method to escrow real estate.

Column 19 lines 4-63

5 Ogilvie speaks to the tools and techniques used to extract samples of digital content, source code damaged or incomplete goods, thumbnails, etc., none of which apply to the real estate escrow.

Column 19 lines 35-39

10 Ogilvie states "If the buyer and seller are in separate legal jurisdictions...." In a real estate escrow transaction neither the buyer nor seller could gain an unfair advantage due to what legal jurisdiction they are in. Real estate is sold subject to compliance with all local, state and national ordinances and goes to the location of the property, not the buyers and sellers.

Column 7-9

15 Ogilvie states "Tailoring the sampling technique to the type of digital content may be convenient in some cases and critical in others. . . ." In a real estate escrow, sampling techniques are not created, offered or delivered, the terms "convenient" or "critical" as used by Ogilvie do not apply.

Column 21 lines 15-65

20 Ogilvie speaks to sampling techniques creating a partial copy of the source code and one that is distorted. No source code is offered in a real estate escrow transaction.

Column 22 lines 32-35

Ogilvie states "Non-textual digital content can also be sampled...." Again, Ogilvie goes to great lengths to define methods for digital goods, content, text and contextual content – none of which is applicable to the escrowing of a real estate transaction.

5 Column 23 lines 48-49

Ogilvie says, "Of course, many other sampling techniques can also be used according to the present invention." None of this is applicable to the escrowing of real estate. There is no sampling offered, delivered, created or otherwise in a real estate transaction.

Column 24 lines 44-49

10 Ogilvie says, "In the illustrated embodiment, the broker 504 includes one or more goods or services 1200 and one or more sample servers." In the real estate transaction there is no need or option offered to separate servers between goods and samples.

Column 25 lines 59-61

15 Ogilvie says, "The invention provides methods, systems and other embodiments for facilitating transactions in digital content." Ogilvie does not however, provide or anticipate a method, system or other embodiments to facilitate a real estates escrow transaction.

Column 26 lines 11-26, lines 36-54

Ogilvie further describes a method for sampling of digital content and goods which clearly are not anticipating a method to escrow real estate.



Column 27 lines 27-55

Ogilvie states, "In one method the party escrows the digital content. . . ." In both methods Ogilvie explains the escrowing of digital content and the creating of samples neither of which is applicable or offered in the real estate escrow.

## CLAIMS

Column 28 lines 25-67, Column 29, Column 30, Column 31, Column 32

Ogilvie states "What is claimed and desired to be served by patent is: . . ."

Methods claimed by Ogilvie specifically are related to digital content, sampling of digital content, Distorting digital content, creating digital content, omitting digital content, providing samples, releasing digital content, identifying a data type of digital content, a goods store for storing digital goods, an automatic broker tool for facilitating barter transactions, distorting sampling, changing the order of the data in the digital content, automatic broker tool providing a burdening sampling adding data to a copy of at least a portion of the digital goods, adding steganographic data, adding spurious data, sample content is not predicted by the party, parties making copies of the digital content, sample content containing incomplete and inaccurate copy of the digital content (23), broker creates the sampling by distorting at least a portion of the digital content, sending samples, digital content includes an image and the step of creating a thumbnail of the image (31), receiving from the seller a copy of the digital content (32), a method for facilitating barter transactions involving digital content (34), employing the description by advertising at least one of the configured computer storage medium... the sample characterized in that its content is not predicted by the party(35).

Ogilvie clearly has not anticipated a method for the escrowing process to grant from the seller to the buyer the free and clear title of real estate, one that complies with all terms and conditions agreed to by the parties to the transaction as well a complying with all local, state and national ordinances.

## Summary and Conclusion

The evidence is overwhelming. Ogilvie not only was not concerned with real estate escrow type transactions, his invention is inapplicable thereto. Ogilvie must, by his own admission, include “digital goods” as an integral item of sale. Again, as cited in his own words above, Ogilvie specifically admits that such transactions are not “digital goods.” Ogilvie lacks a fundamental concern in this field and the disclosure is inapplicable to limitations in accordance with the embodiments of the present invention, namely, processing real estate escrow transactions. It is not a valid Sec.102 reference. Moreover, since by his own words Ogilvie expressly admits that his invention is inapplicable to real estate transactions, *supra*, there is no motivation for combining his disclosure with other known manner processes and apparatus for such transactions.

Based upon the foregoing, it is submitted that the application now presents claims which are directed to novel, unobvious and distinct features of the present invention which are an advancement to the state of the art. Reconsideration and early allowance of all claims is respectfully requested. The right is expressly reserved to reassert any and all arguments, including the raising of new arguments, should a Notice of Allowance not be forthcoming.

### **(4) AMENDMENTS: VERSIONS WITH MARKINGS TO SHOW CHANGES MADE**

#### In the Claims:

Filed herewith pursuant to Rule 121 is a clean version of the entire set of pending claims remaining after the following amendments have been entered.

1. (Amended) Apparatus for real estate escrow transactions, comprising:  
a computer based automation system, having components providing implementation, management, and tracking of the escrow transactions, wherein data for implementing, managing, and tracking the escrow transactions is accessible for specific parties to said escrow transactions.

2. The apparatus as set forth in claim 1, comprising:  
said components including program modules distributed between principals and parties to said escrow transactions, providing predetermined party associated data entry and access.

5 3. The apparatus as set forth in claim 2, comprising:  
said program modules including security measures providing for a variety of levels for said associated data entry and access to said escrow transactions.

4. (Amended) A client-server computer system for escrow of [property] real estate, comprising:  
10 at least one client module associated with at least one client party for initiating an escrow process with at least one escrow party; and  
at least one server module associate with the escrow party, wherein a specific escrow account between said client party and said escrow party is established, maintained, tracked, and consummated via said client-server computer system.

15 5. The system as set forth in claim 4, comprising:  
on-line entry and transmission of escrow initiation, escrow instructions, escrow status tracking, and escrow consummation between the server party and the client party.

20 6. The system as set forth in claim 4, the at least one server module associated with the escrow party further comprising:  
on-line entry and transmission of service provider data between the server party and at least one service provider.

25 7. The system as set forth in claim 4, comprising:  
computer code providing data security.

14. A process for a computerized real estate escrow transaction comprising:  
providing escrow account, escrow status, broker status, lender status, buyer  
status, seller status, and vendor status via a centralized server associated with an  
escrow officer; and

5 connecting parties to said computerized escrow transaction using multiple  
computer network access devices via connectivity types which include but are not  
limited to wireless, satellite, dial-up, or leased communications.

15. A system for real-time or near-real-time real estate escrow transactions,  
comprising:

10 appropriate data, application, and transactional management network programs;  
and

supporting network based applications for performing at least one of the escrow  
services selected from a group including:

15 receiving and storing escrow instructions upon submission by a party to the  
escrow transaction via a computerized communications device;

disseminating instructions to all relevant parties by computer;

providing escrow documentation;

providing escrow documentation approvals;

automating order specified services;

20 real-time and near-real-time display of escrow instructions, status, and activity;

on-line digital identification authentication;

transfer of ownership;

closing escrow;

releasing of escrow funds; and

25 digital transfer of escrow funds.

16. A method of doing business in realty using an internet comprising:  
providing an on-line escrow account for parties to a transaction;

providing on-line transactional account management services with respect to the on-line escrow account for said parties; and

providing secure access to said on-line escrow account limited to the parties and third parties using on-line identification authentication.

5 17. A computer memory having a program for real estate escrow transactions comprising:

program code providing a client-server based automation system for an escrow transaction;

10 program code providing implementation, management, tracking, and closing of specific escrow transactions; and

program code allowing escrow transaction data access only for specific parties to said escrow transaction.

15 18. The memory as set forth in claim 17 wherein said program code allowing escrow transaction data access only for specific parties to said escrow transaction further comprises:

program code for identification authentication.

19. The memory as set forth in claim 17 wherein said program code providing implementation, management, tracking, and closing of specific escrow transactions further comprises:

20 program code for digital signatures.

20. The memory as set forth in claim 17 comprising:

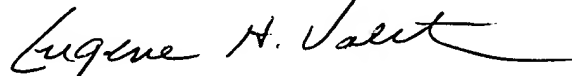
25 program code for a method of doing business using an internet, the code including computerized processes for providing an on-line escrow account for parties to a transaction, providing on-line transactional account management services with respect to the on-line escrow account for said parties, and providing secure access to

said on-line escrow account limited to the parties and third parties using on-line identification authentication.

Questions or suggestions that will advance the case to allowance may be directed to the undersigned by teleconference at the Examiner's convenience.

Date: JUNE 11, 2002

Respectfully submitted,



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